

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SAMEECH RAWLS,)	
)	
Plaintiff,)	
)	Civil Action No. 22-1751
v.)	
)	District Judge W. Scott Hardy
MICHAEL GUYTON, MR. GIBBS,)	Magistrate Judge Lisa Pupo Lenihan
ROBERT GILMORE, CAPTAIN DURCO,)	
and MR. CUMBERLEDGE,)	
)	
Defendants.)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by Magistrate Judge Lisa Pupo Lenihan on August 18, 2023. (Docket No. 9). In this action, *pro se* Plaintiff Sameech Rawls, a state prisoner housed at SCI Greene, alleges claims against Defendants for violations of equal protection and due process pursuant to 42 U.S.C. § 1983; violation of equal protection based on unlawful discrimination against a prison inmate pursuant to 42 U.S.C. § 1985; neglect to prevent his fall from a top bunk bed and sexual assault pursuant to 42 U.S.C. § 1986; and intentional infliction of emotional distress and cruel and unusual punishment in sanctioning torture. (*See generally* Docket No. 8). As noted in the R&R, this action is subject to *sua sponte* screening for dismissal under 28 U.S.C. § 1915A because Plaintiff is a prisoner seeking redress from governmental officers or employees. (Docket No. 9 at 5). The R&R recommends that Plaintiff’s Complaint be dismissed with prejudice as to all Defendants pursuant to 28 U.S.C. § 1915A(b)(1) because it fails to state a claim upon which relief may be granted and it is malicious. (*See id.* at 7-10).

Service of the R&R was made on Plaintiff by mail, and any objections were due by September 5, 2023. Thereafter, Plaintiff did not file any objections to the R&R.

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(2), (b)(3); 28 U.S.C. § 636(b)(1). Here, however, because no party filed any objections to the R&R, this Court reviews the magistrate judge's decision for plain error. *See Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *see also* Fed. R. Civ. P. 72(b), Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

In this case, upon careful review of Plaintiff's Complaint and the R&R, and finding no plain error on the face of the record, the Court will accept Judge Lenihan's recommendation. The R&R notes that this action, which is nearly identical to a previous lawsuit filed by Plaintiff at Civil Action No. 16-1438, is Plaintiff's second attempt to bring the same claims against the same parties as alleged in his previous lawsuit. (*See* Docket No. 9 at 4-5, 7). As the R&R explains, Plaintiff's Complaint therefore must be dismissed for failure to state a claim because his claims are barred by the doctrine of res judicata, and because it is apparent from the face of the Complaint that his claims are time-barred. (*Id.* at 7-8). Additionally, the Court agrees that the Complaint must be dismissed because it is malicious for the reasons expressed in the R&R. (*Id.* at 9). Finally, the Court concurs with Judge Lenihan that any attempt to amend would be futile under the circumstances of this case, *see Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108 (3d Cir. 2002), thus dismissal will be with prejudice.

Accordingly, in view of the foregoing, this 28th day of September, 2023, IT IS HEREBY ORDERED as follows:

- (1) The R&R, (Docket No. 9), is ADOPTED as the Opinion of the Court;
- (2) Plaintiff's Complaint, (Docket No. 8), is DISMISSED WITH PREJUDICE pursuant to the screening provisions of 28 U.S.C. § 1915A(b)(1) for the reasons expressed in the R&R and adopted herein; and,
- (3) The Clerk of Court shall mark this case closed.

s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc: Sameech Rawls (via U.S. Mail)
JP-3087
SCI Greene
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